



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4848**

Introduced 2/8/2008, by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-102 from Ch. 95 1/2, par. 5-102  
625 ILCS 5/5-102.5 new  
30 ILCS 105/5.708 new

Amends the Illinois Vehicle Code. Establishes a prelicensing education program for used vehicle dealers. Requires at least one person who is associated with a used vehicle dealer to complete a minimum of 8 hours of prelicensing education program courses prior to the dealership applying for a license with the Secretary of State. Provides that the Illinois Independent Automobile Dealers Association, in consultation with the Secretary of State, the Department of Transportation, the State Board of Education, and the Attorney General, shall develop the prelicensing course curricula for the used vehicle dealer education program, which shall include, but not be limited to, examination of federal and State laws applicable to the motor vehicle industry and federal and State regulations pertaining to used vehicle dealers. Provides that the education program courses shall be provided by the Illinois Independent Automobile Dealers Association in conjunction with a community college. Requires the community college providing used vehicle dealer education program courses to report on the program annually, by December 31, to the Secretary of State, the Secretary of Transportation, the State Superintendent of Education, and the Attorney General. Makes exemptions to the education requirements. Provides that the State Board of Education shall adopt rules establishing reasonable fees to be charged for the prelicensing education courses and to be deposited into the Used Vehicle Dealer Education Fund for use for expenses related to the development and continuation of the prelicensing education courses. Amends the State Finance Act to create the Used Vehicle Dealer Education Fund. Effective January 1, 2009.

LRB095 17248 LCT 43308 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 5-102 and by adding Section 5-102.5 as follows:

6 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

7 Sec. 5-102. Used vehicle dealers must be licensed.

8 (a) No person, other than a licensed new vehicle dealer,  
9 shall engage in the business of selling or dealing in, on  
10 consignment or otherwise, 5 or more used vehicles of any make  
11 during the year (except house trailers as authorized by  
12 paragraph (j) of this Section and rebuilt salvage vehicles sold  
13 by their rebuilders to persons licensed under this Chapter), or  
14 act as an intermediary, agent or broker for any licensed dealer  
15 or vehicle purchaser (other than as a salesperson) or represent  
16 or advertise that he is so engaged or intends to so engage in  
17 such business unless licensed to do so by the Secretary of  
18 State under the provisions of this Section.

19 (b) An application for a used vehicle dealer's license  
20 shall be filed with the Secretary of State, duly verified by  
21 oath, in such form as the Secretary of State may by rule or  
22 regulation prescribe and shall contain:

23 1. The name and type of business organization

1 established and additional places of business, if any, in  
2 this State.

3 2. If the applicant is a corporation, a list of its  
4 officers, directors, and shareholders having a ten percent  
5 or greater ownership interest in the corporation, setting  
6 forth the residence address of each; if the applicant is a  
7 sole proprietorship, a partnership, an unincorporated  
8 association, a trust, or any similar form of business  
9 organization, the names and residence address of the  
10 proprietor or of each partner, member, officer, director,  
11 trustee or manager.

12 3. A statement that the applicant has been approved for  
13 registration under the Retailers' Occupation Tax Act by the  
14 Department of Revenue. However, this requirement does not  
15 apply to a dealer who is already licensed hereunder with  
16 the Secretary of State, and who is merely applying for a  
17 renewal of his license. As evidence of this fact, the  
18 application shall be accompanied by a certification from  
19 the Department of Revenue showing that the Department has  
20 approved the applicant for registration under the  
21 Retailers' Occupation Tax Act.

22 4. A statement that the applicant has complied with the  
23 appropriate liability insurance requirement. A Certificate  
24 of Insurance in a solvent company authorized to do business  
25 in the State of Illinois shall be included with each  
26 application covering each location at which he proposes to

1 act as a used vehicle dealer. The policy must provide  
2 liability coverage in the minimum amounts of \$100,000 for  
3 bodily injury to, or death of, any person, \$300,000 for  
4 bodily injury to, or death of, two or more persons in any  
5 one accident, and \$50,000 for damage to property. Such  
6 policy shall expire not sooner than December 31 of the year  
7 for which the license was issued or renewed. The expiration  
8 of the insurance policy shall not terminate the liability  
9 under the policy arising during the period for which the  
10 policy was filed. Trailer and mobile home dealers are  
11 exempt from this requirement.

12 If the permitted user has a liability insurance policy  
13 that provides automobile liability insurance coverage of  
14 at least \$100,000 for bodily injury to or the death of any  
15 person, \$300,000 for bodily injury to or the death of any 2  
16 or more persons in any one accident, and \$50,000 for damage  
17 to property, then the permitted user's insurer shall be the  
18 primary insurer and the dealer's insurer shall be the  
19 secondary insurer. If the permitted user does not have a  
20 liability insurance policy that provides automobile  
21 liability insurance coverage of at least \$100,000 for  
22 bodily injury to or the death of any person, \$300,000 for  
23 bodily injury to or the death of any 2 or more persons in  
24 any one accident, and \$50,000 for damage to property, or  
25 does not have any insurance at all, then the dealer's  
26 insurer shall be the primary insurer and the permitted

1 user's insurer shall be the secondary insurer.

2 When a permitted user is "test driving" a used vehicle  
3 dealer's automobile, the used vehicle dealer's insurance  
4 shall be primary and the permitted user's insurance shall  
5 be secondary.

6 As used in this paragraph 4, a "permitted user" is a  
7 person who, with the permission of the used vehicle dealer  
8 or an employee of the used vehicle dealer, drives a vehicle  
9 owned and held for sale or lease by the used vehicle dealer  
10 which the person is considering to purchase or lease, in  
11 order to evaluate the performance, reliability, or  
12 condition of the vehicle. The term "permitted user" also  
13 includes a person who, with the permission of the used  
14 vehicle dealer, drives a vehicle owned or held for sale or  
15 lease by the used vehicle dealer for loaner purposes while  
16 the user's vehicle is being repaired or evaluated.

17 As used in this paragraph 4, "test driving" occurs when  
18 a permitted user who, with the permission of the used  
19 vehicle dealer or an employee of the used vehicle dealer,  
20 drives a vehicle owned and held for sale or lease by a used  
21 vehicle dealer that the person is considering to purchase  
22 or lease, in order to evaluate the performance,  
23 reliability, or condition of the vehicle.

24 As used in this paragraph 4, "loaner purposes" means  
25 when a person who, with the permission of the used vehicle  
26 dealer, drives a vehicle owned or held for sale or lease by

1 the used vehicle dealer while the user's vehicle is being  
2 repaired or evaluated.

3 5. An application for a used vehicle dealer's license  
4 shall be accompanied by the following license fees:

5 \$1,000 for applicant's established place of business,  
6 and \$50 for each additional place of business, if any, to  
7 which the application pertains; however, if the  
8 application is made after June 15 of any year, the license  
9 fee shall be \$500 for applicant's established place of  
10 business plus \$25 for each additional place of business, if  
11 any, to which the application pertains. License fees shall  
12 be returnable only in the event that the application is  
13 denied by the Secretary of State. Of the money received by  
14 the Secretary of State as license fees under this Section  
15 for the 2004 licensing year and thereafter, 95% shall be  
16 deposited into the General Revenue Fund.

17 6. A statement that the applicant's officers,  
18 directors, shareholders having a 10% or greater ownership  
19 interest therein, proprietor, partner, member, officer,  
20 director, trustee, manager or other principals in the  
21 business have not committed in the past 3 years any one  
22 violation as determined in any civil, criminal or  
23 administrative proceedings of any one of the following  
24 Acts:

25 (A) The Anti Theft Laws of the Illinois Vehicle  
26 Code;

1 (B) The Certificate of Title Laws of the Illinois  
2 Vehicle Code;

3 (C) The Offenses against Registration and  
4 Certificates of Title Laws of the Illinois Vehicle  
5 Code;

6 (D) The Dealers, Transporters, Wreckers and  
7 Rebuilders Laws of the Illinois Vehicle Code;

8 (E) Section 21-2 of the Illinois Criminal Code of  
9 1961, Criminal Trespass to Vehicles; or

10 (F) The Retailers' Occupation Tax Act.

11 7. A statement that the applicant's officers,  
12 directors, shareholders having a 10% or greater ownership  
13 interest therein, proprietor, partner, member, officer,  
14 director, trustee, manager or other principals in the  
15 business have not committed in any calendar year 3 or more  
16 violations, as determined in any civil or criminal or  
17 administrative proceedings, of any one or more of the  
18 following Acts:

19 (A) The Consumer Finance Act;

20 (B) The Consumer Installment Loan Act;

21 (C) The Retail Installment Sales Act;

22 (D) The Motor Vehicle Retail Installment Sales  
23 Act;

24 (E) The Interest Act;

25 (F) The Illinois Wage Assignment Act;

26 (G) Part 8 of Article XII of the Code of Civil

1 Procedure; or

2 (H) The Consumer Fraud Act.

3 8. A bond or Certificate of Deposit in the amount of  
4 \$20,000 for each location at which the applicant intends to  
5 act as a used vehicle dealer. The bond shall be for the  
6 term of the license, or its renewal, for which application  
7 is made, and shall expire not sooner than December 31 of  
8 the year for which the license was issued or renewed. The  
9 bond shall run to the People of the State of Illinois, with  
10 surety by a bonding or insurance company authorized to do  
11 business in this State. It shall be conditioned upon the  
12 proper transmittal of all title and registration fees and  
13 taxes (excluding taxes under the Retailers' Occupation Tax  
14 Act) accepted by the applicant as a used vehicle dealer.

15 9. Such other information concerning the business of  
16 the applicant as the Secretary of State may by rule or  
17 regulation prescribe.

18 10. A statement that the applicant understands Chapter  
19 1 through Chapter 5 of this Code.

20 11. A copy of the certification from the prelicensing  
21 education program.

22 (c) Any change which renders no longer accurate any  
23 information contained in any application for a used vehicle  
24 dealer's license shall be amended within 30 days after the  
25 occurrence of each change on such form as the Secretary of  
26 State may prescribe by rule or regulation, accompanied by an

1 amendatory fee of \$2.

2 (d) Anything in this Chapter to the contrary  
3 notwithstanding, no person shall be licensed as a used vehicle  
4 dealer unless such person maintains an established place of  
5 business as defined in this Chapter.

6 (e) The Secretary of State shall, within a reasonable time  
7 after receipt, examine an application submitted to him under  
8 this Section. Unless the Secretary makes a determination that  
9 the application submitted to him does not conform to this  
10 Section or that grounds exist for a denial of the application  
11 under Section 5-501 of this Chapter, he must grant the  
12 applicant an original used vehicle dealer's license in writing  
13 for his established place of business and a supplemental  
14 license in writing for each additional place of business in  
15 such form as he may prescribe by rule or regulation which shall  
16 include the following:

17 1. The name of the person licensed;

18 2. If a corporation, the name and address of its  
19 officers or if a sole proprietorship, a partnership, an  
20 unincorporated association or any similar form of business  
21 organization, the name and address of the proprietor or of  
22 each partner, member, officer, director, trustee or  
23 manager;

24 3. In case of an original license, the established  
25 place of business of the licensee;

26 4. In the case of a supplemental license, the

1 established place of business of the licensee and the  
2 additional place of business to which such supplemental  
3 license pertains.

4 (f) The appropriate instrument evidencing the license or a  
5 certified copy thereof, provided by the Secretary of State  
6 shall be kept posted, conspicuously, in the established place  
7 of business of the licensee and in each additional place of  
8 business, if any, maintained by such licensee.

9 (g) Except as provided in subsection (h) of this Section,  
10 all used vehicle dealer's licenses granted under this Section  
11 expire by operation of law on December 31 of the calendar year  
12 for which they are granted unless sooner revoked or cancelled  
13 under Section 5-501 of this Chapter.

14 (h) A used vehicle dealer's license may be renewed upon  
15 application and payment of the fee required herein, and  
16 submission of proof of coverage by an approved bond under the  
17 "Retailers' Occupation Tax Act" or proof that applicant is not  
18 subject to such bonding requirements, as in the case of an  
19 original license, but in case an application for the renewal of  
20 an effective license is made during the month of December, the  
21 effective license shall remain in force until the application  
22 for renewal is granted or denied by the Secretary of State.

23 (i) All persons licensed as a used vehicle dealer are  
24 required to furnish each purchaser of a motor vehicle:

25 1. A certificate of title properly assigned to the  
26 purchaser;

1           2. A statement verified under oath that all identifying  
2 numbers on the vehicle agree with those on the certificate  
3 of title;

4           3. A bill of sale properly executed on behalf of such  
5 person;

6           4. A copy of the Uniform Invoice-transaction reporting  
7 return referred to in Section 5-402 of this Chapter;

8           5. In the case of a rebuilt vehicle, a copy of the  
9 Disclosure of Rebuilt Vehicle Status; and

10          6. In the case of a vehicle for which the warranty has  
11 been reinstated, a copy of the warranty.

12          (j) A real estate broker holding a valid certificate of  
13 registration issued pursuant to "The Real Estate Brokers and  
14 Salesmen License Act" may engage in the business of selling or  
15 dealing in house trailers not his own without being licensed as  
16 a used vehicle dealer under this Section; however such broker  
17 shall maintain a record of the transaction including the  
18 following:

19           (1) the name and address of the buyer and seller,

20           (2) the date of sale,

21           (3) a description of the mobile home, including the  
22 vehicle identification number, make, model, and year, and

23           (4) the Illinois certificate of title number.

24          The foregoing records shall be available for inspection by  
25 any officer of the Secretary of State's Office at any  
26 reasonable hour.

1           (k) Except at the time of sale or repossession of the  
2 vehicle, no person licensed as a used vehicle dealer may issue  
3 any other person a newly created key to a vehicle unless the  
4 used vehicle dealer makes a copy of the driver's license or  
5 State identification card of the person requesting or obtaining  
6 the newly created key. The used vehicle dealer must retain the  
7 copy for 30 days.

8           A used vehicle dealer who violates this subsection (k) is  
9 guilty of a petty offense. Violation of this subsection (k) is  
10 not cause to suspend, revoke, cancel, or deny renewal of the  
11 used vehicle dealer's license.

12           (Source: P.A. 92-391, eff. 8-16-01; 92-835, eff. 6-1-03; 93-32,  
13 eff. 7-1-03.)

14           (625 ILCS 5/5-102.5 new)

15           Sec. 5-102.5. Used vehicle dealer prelicensing education  
16 program courses.

17           (a) An applicant for a license as a used vehicle dealer  
18 shall complete a minimum of 8 hours of prelicensing education  
19 program courses pursuant to this Section prior to submitting an  
20 application to the Secretary of State.

21           (b) To meet the requirements of this Section, at least one  
22 individual who is associated with the used vehicle dealer as an  
23 owner, principal, corporate officer, director, or member or  
24 partner of a limited liability company or limited liability  
25 partnership shall complete the education program courses.

1       (c) The Illinois Independent Automobile Dealers  
2 Association, in consultation with the Secretary of State, the  
3 Department of Transportation, the State Board of Education, and  
4 the Attorney General, shall develop the prelicensing course  
5 curricula for the used vehicle dealer education program, which  
6 shall include, but not be limited to, examination of federal  
7 and State laws applicable to the motor vehicle industry and  
8 federal and State regulations pertaining to used vehicle  
9 dealers. The education program courses shall be provided by the  
10 Illinois Independent Automobile Dealers Association in  
11 conjunction with a community college.

12       (d) The State Board of Education shall adopt rules  
13 establishing reasonable fees to be charged for the prelicensing  
14 education courses. Any fees collected pursuant to this Section  
15 shall be deposited into the Used Vehicle Dealer Education Fund,  
16 which is hereby created as a special fund in the State  
17 treasury. Any money in the Used Vehicle Education Fund shall be  
18 used, subject to appropriate, for expenses related to the  
19 development and continuation of the prelicensing education  
20 courses.

21       (e) The Illinois Independent Automobile Dealers  
22 Association shall issue a certificate to each person who  
23 successfully completes the prelicensing education program  
24 under this Section. The current certificate of completion, or a  
25 copy of the certificate, shall be posted conspicuously in the  
26 principal office of the licensee.

1       (f) The provisions of this Section apply to all used  
2 vehicle dealers including, but not limited to, individuals,  
3 corporations, and partnerships, except for the following:

4           (1) Motor vehicle rental companies having a national  
5 franchise.

6           (2) National motor vehicle auction companies.

7           (3) Wholesale dealer-only auction companies.

8           (4) Used vehicle dealerships owned by a franchise motor  
9 vehicle dealer.

10          (5) Banks, credit unions, and savings and loan  
11 associations.

12       (g) Each community college providing used vehicle dealer  
13 education program courses shall transmit a report on the  
14 program annually, by December 31, to the Secretary of State,  
15 the Secretary of Transportation, the State Superintendent of  
16 Education, and the Attorney General.

17       Section 10. The State Finance Act is amended by adding  
18 Section 5.708 as follows:

19           (30 ILCS 105/5.708 new)

20           Sec. 5.708. The Used Vehicle Dealer Education Fund.

21       Section 99. Effective date. This Act takes effect January  
22 1, 2009.